



## Senate

General Assembly

**File No. 388**

February Session, 2016

Substitute Senate Bill No. 392

*Senate, March 31, 2016*

The Committee on Human Services reported through SEN. MOORE, M. of the 22nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING THE ADOPTION OF THE SPECIAL NEEDS TRUST FAIRNESS ACT IN CONNECTICUT UPON PASSAGE IN CONGRESS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (c) of section 17b-261 of the 2016 supplement  
2 to the general statutes is repealed and the following is substituted in  
3 lieu thereof (*Effective from passage*):

4 (c) For the purposes of determining eligibility for the Medicaid  
5 program, an available asset is one that is actually available to the  
6 applicant or one that the applicant has the legal right, authority or  
7 power to obtain or to have applied for the applicant's general or  
8 medical support. If the terms of a trust provide for the support of an  
9 applicant, the refusal of a trustee to make a distribution from the trust  
10 does not render the trust an unavailable asset. Notwithstanding the  
11 provisions of this subsection, the availability of funds in a trust or  
12 similar instrument funded in whole or in part by the applicant or the  
13 applicant's spouse shall be determined pursuant to the Omnibus

14 Budget Reconciliation Act of 1993, 42 USC 1396p. The provisions of  
15 this subsection shall not apply to a special needs trust, as defined in 42  
16 USC 1396p(d)(4)(A), as amended from time to time. For purposes of  
17 determining whether a beneficiary under a special needs trust, who  
18 has not received a disability determination from the Social Security  
19 Administration, is disabled, as defined in 42 USC 1382c(a)(3), the  
20 Commissioner of Social Services, or the commissioner's designee, shall  
21 independently make such determination. The commissioner shall not  
22 require such beneficiary to apply for Social Security disability benefits  
23 or obtain a disability determination from the Social Security  
24 Administration for purposes of determining whether the beneficiary is  
25 disabled.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	17b-261(c)
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**Statement of Legislative Commissioners:**

The bill became a substitute due to a title change.

**HS**            *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill has no fiscal impact as it makes a technical change to conform with federal law.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis****sSB 392*****AN ACT CONCERNING THE ADOPTION OF THE SPECIAL NEEDS TRUST FAIRNESS ACT IN CONNECTICUT UPON PASSAGE IN CONGRESS.*****SUMMARY:**

This bill makes a technical change to the law governing Medicaid eligibility special needs trusts to ensure that changes to a referenced federal law are incorporated into state law.

EFFECTIVE DATE: Upon passage

**BACKGROUND**

By law, special needs trusts are exempt from asset calculations when determining Medicaid eligibility. There are ongoing efforts at the federal level to allow nonelderly people with disabilities to establish a certain type of special needs trust on their own behalf, as they may do for another type of special needs trust.

**COMMITTEE ACTION**

Human Services Committee

Joint Favorable

Yea 18 Nay 0 (03/15/2016)